

Reply to the Attention of Mary Flynn-Guglietti  
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Email Address mary.flynn@mcmillan.ca  
Our File No. 232575  
Date February 11, 2015

Sent Via E-mail to [teycc@toronto.ca](mailto:teycc@toronto.ca) and [clerk@toronto.ca](mailto:clerk@toronto.ca)

Toronto and East York Community Council  
Toronto City Hall  
100 Queen Street West - 2<sup>nd</sup> Floor, West Tower  
Toronto, ON  
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**Attention: Ros Dyers, Secretariat Contact  
Toronto and East York Community Council**

Dear Chair and Members of the Toronto and East York Community Council:

Re: **Submissions on the Final Report – Downtown East Planning Study  
Official Plan Amendment 82  
Item No. TE4.8 (Scheduled for 11:00 am)  
Amexon Development Corporation owners of 225 Jarvis Street**

We are the solicitors retained on behalf of Amexon Development Corporation (“Amexon”) owners of the lands municipally known as 225 Jarvis Street. Amexon’s lands have frontage and access from both Jarvis Street and George Street and measure approximately 0.46 hectares (1.14 acres) in size. The property is currently developed with a 13 storey building known as the Grand Hotel. The Amexon lands are located within the proposed limits of the Downtown East (“DTE”) Planning Study and proposed Official Plan Amendment 82 (“OPA 82”).

The purpose of this letter is to outline Amexon’s concerns with proposed OPA 82, which is the amendment to the City of Toronto Official Plan intended to implement the DTE Planning Study. A summary of Amexon’s concerns are outlined in earlier correspondence to the Director of Community Planning dated December 17, 2014 (attached for ease of reference). Upon review of the Final Report dated January 22, 2015 for the DTE Planning Study we note that many of Amexon’s concerns have not been addressed, including Amexon’s primary concerns related to:

- The complete disregard of the tower separation and setback objectives of the City of Toronto’s Tall Building Design Guidelines; and

- The implementation of development policy that promotes a “race to the finish line”/ “first to the post” approach to land use planning.

### Hazelburn Character Area

By way of background proposed OPA 82 includes performance standards for certain Character Areas found within the DTE Planning Study area. The Hazelburn Character Area generally consists of lands located along the Jarvis Street corridor between Gerrard Street East and Shuter Street.

There are four (4) tall building development blocks identified in the Hazelburn Character Area that are permitted to accommodate new tall buildings. Block 4 of the Hazelburn Character Area provides proposed performance standards for the properties generally located at the southeast corner of Jarvis Street and Dundas Street West. The Amexon lands are located within Block 4 of the Hazelburn Character Area; specifically within Sub-area 4(B). The lands to the north of the Amexon lands, known as 175-191 Dundas Street and 235 Jarvis Street, comprise Sub-area 4(A).

The Hazelburn Character Area Block 4 performance standards propose that:

- i. Only 2 towers are permitted on Block 4.
- ii. Development on Block 4 will be a tower and base building typology.
- iii. If Block 4(A) develops singly or prior to Block 4(B) the tower on Block 4(A) shall be setback 3 metres from all property lines.
- iv. A tall building is appropriate on the Jarvis frontage of Block 4(B), a transition down in height to a base building of four storeys on George Street will be achieved in the site.

### Tower Separation Distance

On May 8, 2013 City of Toronto Council adopted the updated city-wide Tall Building Design Guidelines (“**TBG**”). The TBG integrate and build upon previous Council-adopted tall building guidelines and establish a unified set of performance measures for the evaluation of all tall building development applications city-wide. As a city-wide urban design guideline the TBG’s focus is on how the design of new tall buildings should be evaluated to ensure that tall buildings fit within their existing and/or planned context and limit local impacts.

One of the most important design criteria discussed in the TBG is tower setbacks and tower separation distance. Adequate tower setbacks and separation distance from property lines and from other towers is a critical component of appropriate tall building design. As noted in the May 2013 Planning Report which recommended approval of the current TBG “*Tower setbacks, stepbacks and separation distances are perhaps the most crucial to the quality of living and working conditions within and around tall buildings...*”. This Report reinforces the importance of appropriate tower separation and setbacks by indicating that a focus in the development of new tall buildings on sites shall be “*on first establishing the required tower setbacks, stepbacks and separation distances, and then evaluating the resultant floor plate shape and size to determine whether a proposed tall building site is viable and appropriate*”. As noted

in the TBG “if it is not feasible to construct a tower on a site after applying these setbacks and stepbacks, the site may be too small for a tall building”.

As further cautioned in the TBG “the construction of tall buildings on sites that are too small to accommodate the minimum tower setbacks and stepbacks results in negative impacts on the quality of the public realm, neighbouring properties, the living and working conditions for occupants, and the overall livability of the City.”

Performance Criteria iii) for Block 4 of the Hazelburn Character Area in OPA 82 proposes that “If Block 4(A) develops singly or prior to Block 4(B) the tower on Block 4(A) shall be setback 3 metres from all property lines.”

The above provision of OPA 82 identifies Block 4(A), located immediately to the north of the Amexon lands, as a tall building on the basis that it is permitted to provide a significantly reduced tower setback of only 3.0 metres from all lot lines. This proposed site specific development criteria that permits a tower setback of only 3.0 metres from all property lines is in complete disregard to the well-established, City wide tower setback requirement of 12.5 metres between lot lines and tall buildings as set out in the TBG. There is absolutely no reasonable planning justification on why City Planning Staff believe that Block 4(A) should receive “special status” to permit only a 3.0 metre tower setback wherein the standard as approved City wide and endorsed in the TBG is a minimum of 12.5 metres.

We believe that the approval of OPA 82 in its current form will establish a significant and dangerous precedent within the immediately adjacent area, the larger DTE Planning Study area and the whole of the City of Toronto as it relates to the critical aspect of tower setbacks and building separation distance.

It is also important to note that Block 4(A) measures only 0.29 acres in size. In accordance with the TBG, Block 4(A), due to its small size, cannot provide an appropriate minimum tower setback and is thus cannot be characterized as a suitable tall building site.

#### “First to the Post” Development Scenario

As noted in the TBG, it is important to understand the cumulative effect of the proposed tall buildings within the context of other existing and proposed tall buildings. Where a new tall building is proposed adjacent to an existing tall building or a potential tall building development site, matters of sunlight, sky view, privacy and daylighting become even more critical since the cumulative effect of a cluster of towers on a street, park, open space, or in relation to each other can amplify the quality of life concerns for both the public and private realms.

If towers are permitted to locate too close to side or rear property lines, the result is a “first to the post” development scenario, whereby the need to provide access to sunlight, sky view, privacy, and daylighting, may significantly and unfairly restrict adjacent sites from developing.

Performance Criteria i) for Block 4 of the Hazelburn Character Area proposes that “Only 2 towers are permitted on Block 4.” No planning justification has been provided which supports this totally arbitrary restriction of the maximum number of building towers. This proposed provision of OPA 82 also creates a “race to the finish line” / “first to the post” approach to land use planning. This suggested approach does not represent good land use planning and is contrary to and undermines the goals of the TBG.

### Tower Placement

Performance Criteria iv) for Block 4 of the Hazelburn Character Area proposes that *“A tall building is appropriate on the Jarvis frontage of Block 4(B), a transition down in height to a base building of four storeys on George Street will be achieved in the site.”* This is a new performance criteria that has been introduced for the first time in the January 22, 2015 Final Report for the DTE Planning Study / OPA 82.

Planning Staff’s Final Report on the DTE Planning Study suggests that Block 4(B) (the Amexon site) can only appropriately accommodate one (1) tower fronting onto Jarvis Street. Staff’s position fails to recognize the unique size of the Amexon site, which measures 1.14 acres. The Amexon site is large and can easily accommodate two (2) towers while also supporting the intent of the TBG including, but not limited to, appropriate transitioning to the designated Neighbourhood designations that abut the site to the south and are located east of George Street.

### Conclusions

We respectfully submit that the concerns articulated in our December 17<sup>th</sup>, 2014 letter and noted herein have not been fairly addressed nor is the current wording of OPA 82 in keeping with the long established planning principles set out in the TBG for the development of tall buildings within the City of Toronto.

- Tower setbacks of 3.0 metres to all adjacent lot lines is contrary to and significantly undermines the goals of the TBG.
- The “race to the finish line” / “first to the post” approach to planning does not represent good land use planning principles and is contrary to and undermines the goals of the TBG.
- OPA 82 does not appropriately recognize the large size of the Amexon site, which can accommodate two (2) towers that supports the intent of the TBG. This includes facilitating appropriate transitioning to the designated *Neighbourhood* designations that abut the site to the south and are located east of George Street.

The primary concerns discussed above are significant flaws of the DTE Planning Study and proposed OPA 82.

We therefore respectfully request that the TEYCC **not recommend approval of OPA 82** as currently drafted and direct staff to amend OPA 82 to comply with the City's approved TBG and good land use planning principles as described in this letter. However should the TEYCC choose to adopt OPA 82, it is recommended that, at minimum, the following Performance Standards that glaringly conflict with the TGB and well settled land use planning principles be modified by deleting subparagraphs (i), (iii) and (iv):

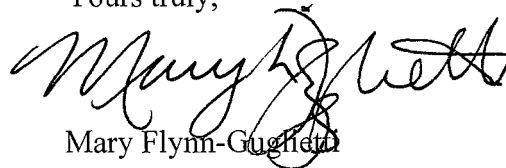
**"Hazelburn Character Area**

**Block 4**

- (i) Only 2 towers are permitted on Block 4. **(Delete)**
- (iii) If block 4(A) develops singly or prior to Block 4(B) the tower on Block 4 (A) shall be set back 3 metres from all property lines. **(Delete)**";
- (iv) a tall building is appropriate on the Jarvis frontage of Block 4(B), a transition down in height to a base building of four-storeys on George Street will be achieved on site. **(Delete)**.

I will be in attendance at the February 18<sup>th</sup>, 2015 TEYCC meeting to present our serious concerns relating to the current draft of OPA 82 and would be pleased to answer any questions members of the TEYCC may have regarding this important matter.

Yours truly,



Mary Flynn-Guglietti

/sb  
Attach.

Councillor Wong-Tam  
Amexon Development Corporation  
Michael Gagnon and Richard Domes, Gagnon Law Urban Planners

Reply to the Attention of Mary Flynn-Guglietti  
Direct Line 416.865.7256  
Email Address mary.flynn@mcmillan.ca  
Our File No. 232575  
Date December 17, 2014

**Sent Via Email to glintern@toronto.ca and Regular Mail**

Community Planning, Toronto and East York District  
City of Toronto  
100 Queen Street West  
Toronto, Ontario  
M5H 2N2

**Attention: Gregg Lintern, MCIP, RPP  
Director, Community Planning, Toronto and East York District**

Dear Sir:

**Re: Comments on the Downtown East Planning Study & Garden District  
Heritage Conservation District Plan  
Official Plan Amendment 82 (SASP 461)  
Amexon Development Corporation owners of 225 Jarvis Street, Toronto**

We are the solicitors retained on behalf of Amexon Development Corporation (“**Amexon**”) owners of the lands generally located at the southeast quadrant of Jarvis Street and Dundas Street East and municipally known as 225 Jarvis Street (“Amexon Property”). The Amexon Property has frontage and access from both Jarvis Street and George Street and measures approximately 0.46 hectares (1.14 acres) in size. The Amexon Property is currently developed with an 13 storey building, known as the Grand Hotel.

The purpose of this letter is to provide Amexon’s strong opposition to a number of development policies of proposed Official Plan Amendment 82 (being an Amendment to approve the *Garden District Site and Specific Policy 461 – SASP 461*).

As well, Amexon objects to its property’s inclusion within the limits of the proposed *Garden District Heritage Conservation District Plan*.

**1. Downtown East Planning Study (OPA 82 / SASP 461):**

On July 6, 2010 the City of Toronto commenced a comprehensive area study entitled the “Downtown East Planning Study” for lands generally bounded by Jarvis Street to the west, Carlton Street to the north, Sherbourne Street to the east and Queen Street East to the south (“**the Study Area**”). The Amexon Property is located within the Study Area.

The Downtown East Planning Study identifies opportunities for re-investment in the Study Area including higher density residential and non-residential development. The Study has culminated in proposed Official Plan Amendment 82, which seeks to add SASP 461 to the City of Toronto Official Plan. Pursuant to Council's enactment of City Planning's recommendations contained in the July 8, 2014 Status Report, Official Plan Amendment 82 will be brought to a Public Meeting once the Garden District Heritage Conservation District Plan review has been completed. We understand that the Public Meeting is targeted for the second quarter of 2015.

SASP 461 identifies the Amexon Property as being located within the Hazelburn Character Area and thus clearly acknowledges existing and/or potential for a new tall buildings redevelopment. It is our understanding it wasn't until 2014 that the Amexon property was delineated as 1 of 2 components of Block 4 of the Hazelburn Character Area (Block 4a being the various properties located at the southeast corner of Jarvis Street and Dundas Street East and Block 4b being the Amexon Property). Block 4a measures approximately 0.12 hectares (0.30 acres) and is subject to a recently submitted application for rezoning that proposes the redevelopment of this small site for a 47-storey, 534 unit residential development.

Pursuant to proposed SASP 461, Block 4 of the Hazelburn Character Area is subject to the following specific performance standards:

- i. Only two (2) towers are permitted within the whole of Block 4;
- ii. Development on Block 4 will be a tower and base building typology;
- iii. If Block 4a develops singly or prior to Block 4b the tower shall be setback 3 metres from all frontages and property lines.

On behalf of Amexon we strongly object to the Block 4 Performance Standards for the Hazelburn Character Area on the basis that the performance standards are inappropriate as they do not properly consider the redevelopment potential of the Amexon Property as earlier identified in the Downtown East Planning Study, as high density mixed use site.

We respectfully submit that the Block 4 Performance Standard that purports to restrict the Block 4 lands to only two (2) tall buildings is arbitrary and unreasonably restrictive. As well, it presents a land use planning rationale on the basis of "the race of the swiftest". No planning rationale, analysis or justification has been provided in the City Staff Report or any other available background materials as to why Block 4 is to be limited to two (2) tall buildings. We respectfully submit that based on logical land use planning principles the Amexon Property alone is able to properly accommodate at least two (2) tall buildings.

Furthermore, Block 4a may not be an appropriate site for a tall buildings as it is a small site and may not be able to meet appropriate separation setbacks to adjacent properties that have been well established throughout the City and in particular in the City's Tall Building Design Guidelines and the Downtown Tall Buildings – Vision and Supplementary Design Guidelines ("TBDG").

The 3.0 metre tower separation setback from all property lines that is proposed for Block 4a is drastically below the minimum separation distance of 12.5 metres between proposed building towers and adjacent side/rear property lines as established in the TBDG. This proposed Performance Standard would permit tower construction too close to adjacent property lines and will restrict adjacent sites from developing tall buildings in an appropriate manner. For example, it is proposed that if Block 4a develops prior to Block 4b it shall only be required to provide a tower separation distance of 3 metres to all property lines and thus eliminate Amexon's ability to appropriately redevelop its property meeting the recommended tower separation distances encouraged within the TBDG.

We are concerned that the construction of a tall buildings on Block 4a, a site that may be too small to accommodate the minimum tower setbacks, will result in negative impacts on all neighbouring properties and would create a very dangerous precedent that undermines the City's TBDG.

We kindly request that any planning rationale, urban design analysis or any other justification that has been prepared specifically related to the City's recommendation that Block 4 be limited to two (2) towers and that Block 4a be permitted to provide tower separation setbacks of only 3.0 metres be provided for our review.

We also request that the Block 4 Performance Standards for the Hazelburn Character Area be amended as follows:

- i. Development on Block 4 will be a tower and base building typology.
- ii. All towers permitted in Block 4 shall be setback 12.5 metres from the side and rear property lines.

In addition to the above, Amexon has concerns with the proposed SASP 461-wide Development Performance Standard 3.3 in connection with the provision of affordable housing.

## 2. **Garden District Heritage Conservation District Plan:**

Concurrent with the Downtown East Planning Study the City of Toronto is reviewing the designation of the lands generally bounded by Jarvis Street/George Street to the west, Gerrard Street to the north, Sherbourne Street/Oskenonton Lane to the east and Shuter Street to the south as a formal Heritage Conservation District under the *Ontario Heritage Act*. Kindly accept this letter as our opposition to any potential restrictions within the Garden District Heritage Conservation District Plan that would prevent Amexon from redeveloping its property for a new, mixed use, tall building development. The Amexon Property and existing building are not listed or designated heritage features and the property and existing building do not add any heritage value to the surroundings and should therefore not be included in the boundary of the proposed Heritage district. The Amexon Property is also notably located at the south east periphery of the proposed Heritage District limits.



We respectfully submit that it is premature for City Council to consider and approve the proposed OPA 82 until such time as our concerns are addressed. We also submit that the Amexon Property and existing building do not add any heritage value to its local surrounds and should not be included in the boundary of the Garden District Heritage Conservation District Plan. Kindly ensure that our office is notified of any further studies or meetings dealing with these matters. We are willing to meet with staff to further clarify our concerns related to these matters.

Yours very truly,



Mary Flynn-Guglietti

/tr

cc: Amexon Development Corporation  
Gagnon & Law Urban Planners Ltd.  
Clerk of the City of Toronto  
Councillor Kristyn Wong-Tam  
Giulio Cescato, City Planner (gcscat@toronto.ca)